IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

WRIT PETITION NO. 6290 OF 2005.

M/s National Agricultural Co-op.
Marketing Federation of India Ltd.... Petitioner.

V/s.

R.B. Singh and anr. ... Respondents.

Shri Bhavesh Parmar i/b Shashipal Shankar for the petitioner.

Shri P.M. Mokashi for the respondents.

CORAM : V.C.DAGA, J.

DATED : 21.11.2005.

P.C. :

. Heard learned Counsel for the petitioner.

2. Petitioner has raised two contentions:

. (a) the lower Court did not frame preliminary issue as to whether respondent No.1 herein was a workman as defined in the Industrial Disputes Act, 1947. Mere two lines averments in the written statement did not give rise to a triable issue without there being any prima facie; material in support of the said pleadings. It was expected on the part of the employer to at least disclose nature of the duties performed by the employee. No such material is to be found in the pleadings. It was, therefore, not necessary to frame any preliminary issues as contended. Pleadings in this behalf were deficient. Even before this Court, no

material; to show prima facie; that the petitioner is not a workman has been produced. Submission made in this behalf is, thus, misplaced and devoid of any substance. Even in absence of such issue, the petitioner could have led prima facie; evidence so as to persuade the Labour Court to frame issue and accept their contention, since issue can be framed at any stage of the proceedings. No such attempt was made.

. (b) the other contention is that the respondent could not have been granted reinstatement with continuity of service with full backwages. It is an admitted position that no steps were taken to produce evidence before the Labour Court to show that the workman was gainfully employed though petitioner had adequate opportunity to produce such evidence. From the material on record it is difficult to reach to the conclusion that the impugned order is perverse. This Court not being a Court of appeal, is not expected to re-appreciate the evidence. The view taken by the Labour Court in this behalf is a reasonable and possible view in the facts and circumstances of the case.

. In the result, no case is made out to interfere with the impugned order. The petition is, thus, dismissed in limine with no order as to costs.